

Final Statement of Reasons for
Proposed Amendments to California Code of Regulations,
Title 18, Section 1533.2, *Diesel Fuel Used in Farming Activities or Food*
Processing

Update of Information in the Initial Statement of Reasons

The State Board of Equalization (Board) held a public hearing regarding the proposed amendments to California Code of Regulations, title 18, section (Regulation) 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing*, on February 24, 2015. During the public hearing, the Board unanimously voted to adopt the proposed amendments to Regulation 1533.2 without making any substantive changes. However, the Board did make minor nonsubstantial changes to the final text of the proposed amendments to Regulation 1533.2. The Board deleted an inadvertently inserted line from after the word “grocery” in the fourth sentence in subdivision (b)(1), Example B, consistently reformatted the right hand side margin in the partial exemption certificate in Appendix A, and increased the size of the font used in the first and last paragraphs in the partial exemption certificate in Appendix A. The Board did not receive any written comments regarding the proposed regulatory action and no interested parties appeared at the public hearing on February 24, 2015, to comment on the proposed regulatory action.

The factual basis, specific purpose, and necessity for, the problem to be addressed by, and the anticipated benefits from the adoption of the proposed amendments to Regulation 1533.2 are the same as provided in the initial statement of reasons. The Board anticipates that the proposed amendments to Regulation 1533.2 will reduce confusion, promote fairness, and benefit retailers, consumers, Board staff, and the Board by making the definition for the term diesel fuel in Regulation 1533.2 consistent with the definition for the term diesel fuel in the Diesel Fuel Tax Law that applies to diesel fuel transactions, and clarifying that biodiesel is diesel fuel for purposes of the partial exemption from sales and use tax for diesel fuel used in farming activities or food processing.

The adoption of the proposed amendments to Regulation 1533.2 is not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Regulation 1533.2 or the proposed amendments to Regulation 1533.2.

The Board did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting the proposed amendments to Regulation 1533.2 that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

In addition, the factual basis has not changed for the Board’s initial determination that the proposed regulatory action will not have a significant adverse economic impact on business, the Board’s determination that the proposed regulatory action is not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000,

and the Board's economic impact assessment, which determined that the Board's proposed regulatory action:

- Will neither create nor eliminate jobs in the State of California;
- Nor result in the elimination of existing businesses;
- Nor create or expand business in the State of California; and
- Will not affect the benefits of Regulation 1533.2 to the health and welfare of California residents, worker safety, or the state's environment.

The proposed amendments to Regulation 1533.2 may affect small business.

No Mandate on Local Agencies or School Districts

The Board has determined that the adoption of the proposed amendments to Regulation 1533.2 does not impose a mandate on local agencies or school districts.

No Public Comments

The Board did not receive any written comments regarding the proposed regulatory action and no interested parties appeared at the public hearing on February 24, 2015, to comment on the proposed regulatory action.

Determinations Regarding Alternatives

By its motion on February 24, 2015, the Board determined that no alternative to the proposed amendments to Regulation 1533.2 would be more effective in carrying out the purpose for which the amendments are proposed, would be as effective and less burdensome to affected private persons than the adopted amendments, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Board did not reject any reasonable alternatives to the proposed amendments to Regulation 1533.2 that would lessen any adverse impact the proposed amendments may have on small business.

No reasonable alternatives have been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.